IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8615 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

VIRCHAND RAVAJI THAKOR

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for Petitioner

MR HL JANI LD AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/02/2000

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dtd. 26th July, 1999 passed by the Police Commissioner, Ahmedabad whereby the petitioner was detained under the provisions of contained in the Gujarat Prevention of Anti-social Activities Act, 1985.

2. The grounds enclosed with the detention order show that five criminal cases under the Prohibition Act were registered against the petitioner during the period 5th May, 1997 to 26th July, 1999. The petitioner was found in possession of 20 to 70 litre of country made liquor. Out of the five offences, two were registered at Sabarmati Police Station in which chargesheet has already been filed and the same are pending trial before the Court, while rest of the three cases were registered at Prohibition Squad. West Department, Ahmedabad. The detaining authority has recorded that the petitioner is a bootlegger and is engaged in the business of unauthorised liquor, has been openly beating the innocent persons and has also used deadly weapons. The statement of witness with regard to the incidents dtd. 1/7/99 and 28/6/99 have also been referred to in support of the case against the petitioner that he is engaged in anti-social activities and has been resorting to violence, in furtherance of his object of carrying on the business of unauthorised liquor. The witnesses are not able to come out openly against the petitioner out of fear and therefore the names of the witnesses have not been disclosed by invoking Sec. 9(2) of the Gujarat Prevention of Anti-social Activities Act, 1985. Then it has also been recorded that the measures with regard to extradition for two years had also been considered, but as alternate to it,an order for a bond of good conduct for a sum of Rs.3000/-- was also passed and despite this, the petitioner has continued his antisocial activities as a bootlegger.

3. It has been submitted that even if all these allegations levelled against the petitioner in the grounds of detention enclosed with the detention order are taken to be correct, no case of breach of public order is made out. Learned A.P.P. Mr. Jani could not point out as to how these grounds constitute a case of breach of public order.

4. According to the several decisions of the Supreme court, even if such allegations are taken to be correct on their face value, they do not constitute a case of breach of public order. It is at the most a case of breach of law and order and since a case of breach of public order is wanting, the detention order cannot be sustained in the eye of law. The impugned order dtd. 26th July, 1999 passed by the Police Commissioner, Ahmedabad City, cannot be sustained in the eye of law, and the same is hereby quashed and set aside. It is directed that the petitioner detenu Virchand Ravaji

Thakor be released forthwith, if not required to be detained under any other detention order or in any other criminal case. This Special Civil Application is allowed. Rule is made absolute.

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